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22 ANNA MISSOURI  
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24 **UNITED STATES DISTRICT COURT**  
25 **CENTRAL DISTRICT OF CALIFORNIA**  
26

27 ANNA MISSOURI, ) Case No. CV 11-5464 DSF  
28 Plaintiff, )  
29 v. ) **JOINT RULE 26(f) REPORT**  
30 WALGREEN CO., an Illinois )  
31 corporation, and DOES 1 through 35 )  
32 inclusive, )  
33 Defendants. )

34 Plaintiff Anna Missouri ("Plaintiff") and Defendant Walgreen Co.  
35 ("Walgreens"), through their respective counsel, hereby jointly submit this Case  
36 Management Conference Statement and Proposed Order, pursuant to Federal Rule  
37 of Civil Procedure 26(f), and request the Court to adopt it as its Case Management  
38 Order in this Case.

**DESCRIPTION OF THE CASE**

a. Statement of the Case.

**Plaintiff's Statement of the Case:**

On or about September 11, 2009, Plaintiff's doctor placed her on total temporary disability leave for seven days as a result of Plaintiff's headaches and injuries from an August 12, 2009 workplace fire. On or about September 18, 2009 Plaintiff's doctor released Plaintiff to work with accommodations, including but not limited to, limited standing or walking, sit down work, and a 10 minute stretch break every 90 minutes. Defendant did not adhere to these limitations or engage in any good faith interactive process regarding Plaintiff's request for accommodation. On or about October 23, 2009, Plaintiff was diagnosed by her doctor for "adjustment disorder with mixed anxiety and depression." On or about November 6, 2009, Plaintiff's doctor recommended Plaintiff return to work with accommodation – a change in store location. Defendant refused to honor the accommodation or engage in a good faith interactive process regarding the request.

On or about November 13, 2009, Plaintiff put in a request for medical leave pertaining to her mental disability with her store manager Debra Bruno, indicating on that her reasons for leave were due to "depression and anxiety" and to care for her son following his surgery. Ms. Callius later told Plaintiff that her request for leave was approved.

From on or about November 21, 2009 until May 2010, Plaintiff took leave for her mental disability/serious health condition. Plaintiff left work with assurance of employment upon return from her leave from Debra Bruno and Laura Callius, and Plaintiff periodically called Defendant to keep them up-to-date on her status and ensure her employment was secure.

Plaintiff went into work in or about June 2010, to inform Defendants she was ready to resume work. Debra Bruno told Plaintiff she first needed a doctor's

1 note before she could resume work. Plaintiff's physician faxed Defendant a note  
2 indicating Plaintiff was able to resume work, without restrictions, in or about June  
3 2010. The following day, Debra Bruno called Plaintiff and claimed that Plaintiff  
4 could not resume work because the duration of her personal leave was too long.  
5 Debra Bruno indicated that Plaintiff was terminated on April 1, 2010.

6 **Walgreens' Statement of the Case:**

7 Walgreens denies Plaintiff's allegations and states that Plaintiff is not  
8 entitled to recover damages.

9 b. Subject Matter Jurisdiction.

10 Jurisdiction is proper pursuant to Sections 1332, 1441 and 1446 of Title 28  
11 of the United States Code. Complete diversity exists between Plaintiff and  
12 Walgreens pursuant to 28 U.S.C. § 1332(a)(2), as Plaintiff was, and is, a citizen of  
13 the State of California and Walgreens was, and is, incorporated under the laws of  
14 the State of Illinois and maintains its principal place of business in Deerfield,  
15 Illinois.

16 c. Legal Issues.

17 Whether Defendant discriminated against Plaintiff due to disability;

18 Whether Defendant engaged in the interactive process;

19 Whether Defendant performed an undue hardship analysis;

20 Whether Defendant interfered with Plaintiff taking leave pursuant to  
21 CFRA/FMLA and/or retaliated against Plaintiff for taking leave;

22 Whether Defendant could have reasonably accommodated Plaintiff's  
23 requests for accommodation, including but not limited to leave, without causing  
24 undue hardship;

25 Whether Defendant failed to take all reasonable steps to prevent  
26 discrimination and retaliation from occurring; and

27 Whether Defendant wrongfully terminated Plaintiff in violation of  
28 California public policy.

d. Parties, Evidence, Etc.

The only parties to this lawsuit are Plaintiff Anna Missouri and Defendant Walgreen Co.

**Plaintiff's Evidence, Witnesses, and Key Documents:**

1. Plaintiff Anna Missouri; (must be contacted through Plaintiff's counsel)
2. Debra Bruno (contact information in Defendant's possession)
3. Laura Callius (contact information in Defendant's possession)
4. Plaintiff's treating physicians and medical staff, including all individuals treating Plaintiff through US Healthworks Medical Group, including Christian Derefield, P.A..
5. Michael Barsom, M.D., 1760 Chicago Avenue, Suite J3, Riverside, CA 92507; (951) 781-2200;
6. Tanya Demchuk, Sedgwick Claims Examiner - (916) 771-2900, Ext. 12943;
7. Randy Mitsuhashi – Walgreen's store manager alleged to have harassed and discriminated against a disabled employee in Los Angeles County (contact information unknown to Plaintiff)
8. Jose Hernandez - another individual alleging disability discrimination by Walgreen's in Los Angeles County (contact information unknown to Plaintiff)
9. All witnesses identified by Defendant.

Plaintiff anticipates that key evidence and documents will include Defendant's policies and procedures regarding leave, Plaintiff's leave documents, all of Defendant's notes, documents and emails memorializing discussions with Plaintiff and communications regarding her leave, as well as documents between Defendant and Sedgwick (Defendant's 3<sup>rd</sup> party administrator) pertaining to Plaintiff and Plaintiff's claim for workers' compensation.

**Walgreens' Evidence, Witnesses, and Key Documents:**

1. Plaintiff;
2. Deborah Bruno; and
3. Witnesses identified by Plaintiff.

The key evidence and documents will include Defendant's equal employment opportunity policies and procedures, Plaintiff's personnel file, Plaintiff's medical records, and any records maintained by Plaintiff relevant to her claims. As discovery is only beginning, Walgreens reserves the right to name additional witnesses identified throughout the course of this litigation.

e. Damages.

**Plaintiff's Position on the realistic range of provable damages:**

Plaintiff earned approximately \$10 an hour, plus applicable benefits, at the time of her termination (November 1, 2009). Plaintiff estimates, subject to review of documents, that she worked approximately 31 hours per week. Taking  $\$10 \times 31 \times 4 \text{ weeks} =$  approximately \$1,240 monthly. Plaintiff has been unemployed approximately 21 months since her termination.  $\$1,240 \times 21 \text{ months} =$  Lost earnings to date of approximately \$26,040. Plaintiff seeks lost earnings to date, as well as lost earnings capacity in an amount according to proof at trial. Plaintiff will seek damages in an amount according to proof at trial.

Plaintiff seeks damages for emotional distress and pain and suffering caused by Defendant's adverse employment actions against her, including termination, in an amount according to proof.

Medical - In an amount according to proof;

Punitive - In an amount according to proof; and

Attorneys' Fees and Costs - In amount according to proof.

**Walgreens' Position:**

Plaintiff is not entitled to recover damages.

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f. Insurance.

None at issue.

g. Motions.

The parties do not currently anticipate the filing of any motions to amend the pleadings, add parties or claims, transfer venue, etc. The parties anticipate filing pretrial dispositive motion(s) and potential motions in limine.

h. Manual for Complex Litigation.

Not applicable.

i. Status of Discovery.

The parties have propounded written discovery and discussed dates for the depositions of Plaintiff and Walgreens' witnesses. The parties have agreed to exchange responses to written discovery and initial disclosures on October 7, 2011.

j. Discovery Plan.

**Plaintiff's Discovery Plan:**

Discovery Mechanism	Deponent/Recipient of Discovery	Anticipated Completion Date
Depositions	1. Debra Bruno 2. Laura Callius 3. Defendant's Person(s) Most Knowledgeable & Request for Docs 4. Other third-party witnesses identified during discovery 5. Defendant's expert witness(es), if any	1. November 2011 2. November 2011 3. November 2011 4. Prior to discovery cut-off. 5. Prior to expert discovery cut-off.
Request for	Walgreens	October 7, 2011 and

1	Production of		prior to discovery cut-
2	Documents		off if further discovery is
3			required.
4	Special Interrogatories	Walgreens	October 7, 2011 and
5			prior to discovery cut-
6			off if further discovery is
7			required.
8	Request for	Walgreens	Unknown.
9	Admissions		

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11 **Walgreens' Discovery Plan:**

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13	Discovery Mechanism	Deponent/Recipient of	Completion Date
14		Discovery	
15	Depositions	1. Plaintiff	1. November 2011
16		2. Plaintiff's expert	2. Prior to the expert
17		witness(es), if any	discovery cut-off date.
18			
19	Request for	Plaintiff	October 7, 2011 and
20	Production of		prior to discovery cut-
21	Documents		off if further discovery is
22			required.
23	Special Interrogatories	Plaintiff	October 7, 2011 and
24			prior to discovery cut-
25			off if further discovery is
26			required.
27	Request for	Plaintiff	Unknown.
28	Admissions		



1	Subpoena(s)	Plaintiff's Medical Providers	Unknown.
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2 k. Discovery cut-off.

3 **Plaintiff's Proposed Non-Expert Discovery Cut-Off:**

4 a) Completion of non-expert discovery: June 4, 2012

5 **Walgreens' Proposed Non-Expert Discovery Cut-Off:**

6 a) Completion of non-expert discovery: June 4, 2012

7 l. Expert Discovery.

8 **Plaintiff's Proposed Expert Discovery Plan and Cut-Offs:**

9 a) Initial Expert Witness Disclosure: July 2, 2012

10 Expert Witness Reports Exchanged: July 2, 2012

11 Rebuttal Expert Witness Disclosure: August 2, 2012

12 Rebuttal Expert Witness Reports Exchanged: August 2, 2012

13 b) Completion of Expert Discovery: September 7, 2012

14 **Walgreens' Proposed Expert Discovery Plan and Cut-Offs:**

15 a) Initial Expert Witness Disclosure: July 2, 2012

16 Expert Witness Reports Exchanged: July 2, 2012

17 Rebuttal Expert Witness Disclosure: August 2, 2012

18 Rebuttal Expert Witness Reports Exchanged: August 2, 2012

19 b) Completion of Expert Discovery: September 7, 2012

20 m. Dispositive Motions.

21 **Plaintiff's Position:**

22 Plaintiff anticipates bringing a motion for summary judgment or, in the  
 23 alternative, partial summary judgment asserting that Defendant failed in its  
 24 affirmative duties to engage in the interactive process and accommodate Plaintiff's  
 25 known disability and request for accommodation, among other claims as  
 26 determined in discovery. Plaintiff is presently not in a position to ascertain the  
 27 claims and/or issues that may be determined by motion in limine.

28 ///



**Walgreens' Position:**

Walgreens anticipates bringing a motion for summary judgment or, in the alternative, summary adjudication, as to each of Plaintiff's claims for relief. Walgreens is presently not in a position to ascertain the claims and/or issues that may be determined by motion in limine.

n. Settlement.

The parties have not conducted any formal settlement discussions to date. Plaintiff has noted that the matter may be ripe for mediation upon Plaintiff's receipt of all documents memorializing Plaintiff's leave. The parties have selected Settlement Option No. 3 under Local Rule 16.15-4 and agreed to participate in private, non-judicial dispute resolution proceeding with an experienced employment mediator and are in the process of identifying a mediator and selecting a date.

o. Trial.

**Plaintiff's Position:**

Plaintiff has requested a jury trial, estimated length 4 days. Plaintiff anticipates calling 5-7 witnesses at this time.

**Walgreens' Position:**

Walgreens estimates the length of trial will be 4 days. Walgreens anticipates calling approximately 5 – 7 witnesses at this time.

p. Trial Counsel.

Plaintiff will be represented at trial by Michael G. Jacob, Esq.

Walgreens will be represented at trial Rex D. Berry and Erick C. Turner of the law firm Berry & Block LLP.

q. Independent Expert or Master.

The parties do not anticipate the need for an independent expert or master.

r. Timetable.

Please see Exhibit "A".

1 s. Other Issues.

2 The parties are currently unaware of any other issues that require the  
3 Court's attention at this time.

4  
5 Dated: September 26, 2011

/s/ Michael G. Jacob, Esq.

6 Michael G. Jacob, Esq.  
7 Attorney for Plaintiff Anna Missouri  
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10 Dated: September 26, 2011

/s/ Rex Darrell Berry, Esq.

11 Rex Darrell Berry, Esq.  
12 Attorney for Defendant Walgreen Co.  
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1 *Missouri v. Walgreens, et al.*

2 Los Angeles Superior Court, Case No. BC462224

3 U.S.D.C., Central District, Case No. 2:11-CV-05464-DSF-VBK

4 **DECLARATION OF SERVICE**

5 I am a citizen of the United States, over the age of 18 years, and not a party to  
6 or interested in this action. I am an employee of Berry & Block LLP, and my  
7 business address is 2150 River Plaza Drive, Suite 415, Sacramento, CA 95833. On  
8 this day I caused to be served the following document(s):

9 **JOINT RULE 26(f) REPORT**

10 ☒ by placing ☐ the original ☒ a true copy into sealed envelopes addressed  
11 and served as follows:

12 **Attorney for Plaintiff**

13 Michael G. Jacob

14 KESLUCK & SILVERSTEIN, P.C.

15 9255 Sunset Boulevard, Suite 411

16 Los Angeles, CA 90069-3309

17 (310) 273-3180; Fax: (310) 273-6137

18 **BY MAIL:** I am familiar with this firm's practice whereby the mail, after  
19 being placed in a designated area, is given fully prepaid postage and is then  
20 deposited with the U.S. Postal Service at Sacramento, California, after the  
21 close of the day's business.

22 ☐ **BY PERSONAL DELIVERY:** I caused such envelope to be delivered by  
23 hand.

24 ☐ **BY OVERNIGHT COURIER:** I caused such envelope to be placed for  
25 collection and delivery in accordance with standard overnight delivery  
26 procedures for delivery the next business day.

27 ☒ **BY FEDERAL ELECTRONIC FILING:** I caused such document(s) to be  
28 electronically filed with the Clerk of the Court using the CM/ECF system,  
which will send notification of such filing and copies of the document(s) to  
the parties.

I declare under penalty of perjury under the laws of the State of California  
that the foregoing is true and correct. Executed on **September 26, 2011**, at  
Sacramento, California.

  
Jenny O'Shaughnessy

SCHEDULE OF PRETRIAL AND TRIAL DATES

CASE NAME: *Anna Missouri v. Walgreen Co.*

CASE NO: *CV 11-5464 DSF*

Matter	Time	Weeks before trial	Plaintiff(s) Request	Defendant(s) Request	Court Order
Trial (jury)(court) (length <u>5-7</u> days) ( <b>Tuesday</b> )	8:00 am		<i>12/4/12</i>	<i>same</i>	
<u>For Court Trial</u> Lodge Findings of Fact and Conclusions of Law, LR 52, and Summaries of Direct Testimony		3			
Pretrial Conference, LR 16; Hearing on Motions in Limine	3:00pm	4	<i>11/6/12</i>	<i>same</i>	
<u>For Jury Trial</u> Lodge Pretrial Conference Order, LR 16-7; File Agreed Set of Jury Instructions and Verdict Forms; File Statement Regarding Disputed Instructions, Verdicts, etc.; File Oppositions to Motions in Limine		6	<i>10/23/12</i>	<i>same</i>	
<u>For Jury Trial</u> File Memo of Contentions of Fact and Law, LR 16-4; Exhibit & Witness Lists, LR 16-5,6; File Status Report Regarding Settlement; File Motions in Limine		7	<i>10/16/12</i>	<i>same</i>	
Last date to conduct Settlement Conf., LR 16-15		12	<i>9/11/12</i>	<i>same</i>	
Last day for <b>hearing</b> motions, LR 7		14	<i>8/28/12</i>	<i>same</i>	
Non-expert Discovery Cut-off			<i>6/4/12</i>	<i>same</i>	
Expert Disclosure (initial)			<i>7/2/12</i>	<i>same</i>	
Expert Disclosure (rebuttal)			<i>8/2/12</i>	<i>same</i>	
Expert Discovery Cut-off			<i>9/7/12</i>	<i>same</i>	
Last Date to Amend Pleadings or Add Parties					

LR 16-15 Settlement Choice:

☐

1. USMJ



3. Outside ADR

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2. Attorney Settlement Panel

Exhibit A